



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

**FEBRUARY 26, 2008**

PRESENT: Acevedo, Koepp-Baker, Escobar, Mueller, Tanda

ABSENT: Davenport

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Senior Planner (SP) Tolentino, Senior Civil Engineer (SCE) Creer, and Minutes Clerk Johnson.

Chair Escobar called the meeting to order at 7:00 p.m. by inviting all present to join in the pledge of allegiance to the flag.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Escobar opened the floor to public comment. With no persons present indicating a wish to speak to matters not appearing on the agenda, the public hearing was closed.

#### **MINUTES:**

**FEBRUARY 12,  
2008**

#### **COMMISSIONERS MUELLER/KEOPP-BAKER MOTIONED TO APPROVE THE JANUARY 29, 2008 MINUTES WITH THE FOLLOWING AMENDMENTS:**

Page 7, paragraph 8: Chair Escobar commented, "If the variance is appropriate, we may have to decide which option is more suitable ~~than the other~~, and then it would need to be decided which is more ~~expedient~~ **efficient**. We have those mechanisms for doing just that. If we **can** justify our reasoning tonight, why send the matter back to be redone? ~~Or~~ We can have staff and the applicant comes back ~~with~~ **by giving** more specific instructions and plans."

Page 8, paragraph 11, 2<sup>nd</sup> sentence: He asked ~~it~~ **if** the variance...

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Page 9, insert before paragraph 9: *Commissioner Mueller asked staff if their analyses indicated an increase in hours could be supported.*

**THE MOTION PASSED (5-0-0-1) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.**

*Disclosure: Chair Escobar and Commissioner Acevedo announced individual visits to the site of the next agenda item in preparation for this meeting. Further, it was announced that Chair Escobar, Commissioner Acevedo, and Commissioner Koepp-Baker had been contacted by interested parties pertaining to the item.*

**PUBLIC HEARING:**

**1) ZA-07-09/  
SD-07-05/DA-07-02:  
CORY-HABITAT  
FOR HUMANITY**

A request to amend a precise development plan, approve a subdivision map and development agreement for a .52-acre site zoned R-2 3,500/Residential Planned Development. The site is located on the east side of Cory Ave. approximately 80 ft. south of San Luis Way.

SP Linder presented the staff report, noting the applicant has provided four new site plan alternative and detailing each, including parking requirements and yard (rear and side) areas together with set-backs (unchanged) and variances needed. She said that staff had anticipated receiving financial data for five units rather than six, but that information had not been forthcoming; SP Linder stated that the applicant was in the audience and should provide the information requested. "A check with Public Works indicates that it would be possible to provide specific space on specific days on part of Cory Drive for trash collection," SP Linder said. She also called attention that the dwelling unit on lot one had been reconfigured into a two-story. Turning to the *Project Development Agreement*, SP Linder said there were no changes since the description of the document at the December, 2007 Commission meeting.

As to a Staff recommendation, SP Linder said that Alternative Plan #2 best meets the needs for the project development, with the parking arrangements.

Commissioners asked questions of staff regarding:

- potential for trash trucks pull into development; SP Linder explained that contact with the trash haulers had indicated the intent to pick up rubbish only from curbside
- assurances that the City could reserve a spot on Cory Drive [yes]
- posting of streets in the immediate area as 'private'; SP Linder clarified that the City owned and maintained streets were public thoroughfares while conceding that the streets in the park might say 'Private property' while meaning they were indeed owned by the City
- alternative plan #4 parking restrictions; 'apron parking' (PM Rowe explained that sometimes garages become storage units and then people use apron to satisfy parking needs), possibility of having designated on-street parking

Chair Escobar opened the public hearing.

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Rene J. Bevis, 16739 San Luis Way, spoke to the Commissioners regarding:

- pricing for Habitat for Humanity housing (which she said had come from the Habitat web site)
- size of the planned housing units
- failure of Habitat to meet their own guidelines
- concern that the City had allowed change from the originally planned six unit condos -with some being moderate rate – into a six unit housing development
- HOA issues and disquiet
- access issues
- guest parking
- disabled parking areas
- ability of entrance for safety and emergency personnel
- liability insurance limits
- inability to visit other habitat construction/residential (request could not be accommodated)
- other unresolved issues and problems
- five units would be better for utilizing the site

Responding to questions from the Commissioners, Mrs. Bevis said her home was 1,900 sf on 3.5 stores, with a raised foundation about 3-feet above the proposed development.

Concluding, Mrs. Bevis said, “I’m very concerned of having the Villa Nova HOA getting pulled into this.”

Gil Mitchell, 166767 San Luis Way, reiterated statements of concern at previous meetings, then told the Commissioners current concerns of:

- building variances needed at three locations within the proposed development
- ‘fitting in’ of very low income families into a higher economic strata neighborhood
- poorly designed/identified plan changes (which he described as a ‘cluster mess’)
- questions of the financial implications for Habitat of going from six to five units
- concern that condos might be a better fit for the targeted group
- HOA fees and other related expenses to single-family ownership

Chair Escobar made observations regarding perceptions of income and said that it is often difficult to very low-income family dwellings by simply viewing an area while passing through a town.

Frank Garcia, 16741 San Luis Way, reported that there is a ‘customer concept affixed to the amount of violence with too many houses in a small space’. Mr. Garcia urged the Commissioners to consider alternate 4 if the intent was to consider further development as he said he had previously stated his concerns. Responding to a question from Commissioner Koepp-Baker, Mr. Garcia apologized for not having the promised sketch with him at this meeting. During discussion with Commissioner Koepp-Baker of the matter, Mr. Garcia suggested a better staging of the project could

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work to the benefit of the City

Ann Cretin, 16950 Evergreen Dr., told the Commissioners she is a 50-year resident of Morgan Hill and is on the Board of Directors of Habitat of Humanity of Silicon Valley. Ms. Cretin urged 'strongly approval' of the six-unit housing development on Cory Drive.

Robert Freiri was present and informed the Commissioners he is the Executive Director of Habitat for Humanity of Silicon Valley. Mr. Freiri explained:

- the intent to carry the liability insurance required by the City
- why alternative plan #2 would be most attractive for the City
- the economics of having six rather than five units: construction materials are bought in bulk and can be purchased more cost-effectively in the larger grouping (beneficial in assisting very low income families; Habitat personnel costs do not change if fewer numbers of house are built
- addressing the information obtained from the web site re: unit costs, the variances in material costs at different locations – particularly differing States - was explained
- sizes of units: 4 bedroom – 1264 sf; 3 bedroom – 1150 sf and 2 bedroom – 900 sf; it was noted that these will be smaller than near-by units
- development will have own HOA
- strict guidelines of family participation and eligibility; must go through workshops for budgeting (one detail: no more than 30% of housing dollars can go to the mortgage); Habitat wants homeowners to be successful so not all the family income goes into house; funds needed to keep property up and families need to have discretionary funds available as well

Regarding the fiscal analysis requested by the Commission, Mr. Freiri said it appeared to be difficult to accommodate so much parking on a lot this size, so Habitat was somewhat limited in building the number of houses they needed to. The cost of the property was addressed, as was the HOA, and the construction related costs. "The real economics – the bottom line," Mr. Freiri said, "is that the average cost of each of the six units will be \$270,000 and for five the unit cost would be \$203,000. The selling price of the units will be \$220,000 - \$280,000."

Commissioners discussed with Mr. Freiri:

- topography grade differences (Architect advised of intent to install retaining wall between the two properties)
- six-foot difference for detached units
- importance of utilizing highest and best use of monies for construction of six units
- income requirements (for very low income about \$50,000 - \$58,000 annually)

Malia Yee, 17911 Fitch, Irvine, told the Commissioners she is the Architect for the project. Ms. Yee spoke on the modified arrangement of multi-family and importance of keeping the units no more than 6-feet distant from each other. "Please remember, the modified detached can be closer but when utilizing the units as an attached project the buildings cannot be spread apart further," she said.

Jennifer Simmons announced she has changed employment, but because of her belief

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in the work of habitat, she came to this meeting to impress on the Commissioners that Habitat really made efforts to listen to the community regarding the issues of:

- parking
- building settings
- forming a new HOA

Ms. Simmons apologized for not providing the requested fiscal data earlier, and said the change of her employment caused the delay.

Commissioner Tanda asked Mr. Ferrari to clarify further the funding for Habitat projects, with Chair Escobar asking for information on how the 'sweat equity' value is calculated.

With no other persons present indicating a wish to speak to the matter, the public hearing was closed.

Commissioners discussed:

- the previous request of exploring five units; Chair Escobar commented, "With the information received, I can understand both conceptionally and in detail how the six unit project will work for Habitat and how it will work for families who cannot get into homes in this community."
- alternative #2 presented fewer adverse effects
- parking 'interesting': on San Luis Way traffic would not be exiting or entering Cory Drive
- privacy this property is below other properties, so it will not negatively effect those other parcels
- trash pick-up
- concern of common fencing around parcel/retaining wall
- need for a separate HOA (and modification of the prepared Resolution)

Commissioner Acevedo indicated agreement with Chair Escobar that Alternative #2 is most attractive and 'doable'. "I think it would fit better," he said, as he explained he had driven the area to peruse the lot layouts and unit placement.

Commissioner Tanda said he could have supported Alternative #4, but would have preferred a five-unit project. "I think Habitat has been very creative to craft a market for the very low income by working to present this opportunity for very low income families to experience the joy of home ownership," he said.

Commissioner Mueller remarked, "I don't think the exceptions being made here are different from other RPD, and if we looked, we may have found similar exceptions/modifications in surrounding areas to this location. I would rather have seen another design of five units, but understand the fiscal rationale as presented."

**COMMISSIONER MUELLER OFFERED A RESOLUTION  
RECOMMENDING APPROVAL OF AN AMENDMENT TO AN  
ESTABLISHED R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A  
.52 ACRE PORTION OF A 4 ACRE RPD LOCATED ON THE EAST SIDE OF  
CORY AVE., APPROXIMATELY 80 FT SOUTH OF SAN LUIS WAY,  
INCLUSIVE OF THE FINDINGS AND CONDITIONS AS PRESENTED.**

COMMISSIONER ACEVEDO CALLED ATTENTION TO THE NEED FOR A MODIFICATION PERMITTING ESTABLISHMENT OF A COMMON MAINTENANCE AGREEMENT OR AN HOA FOR THE DEVELOPMENT. COMMISSIONER MUELLER AGREED, MODIFYING THE MOTION, WHICH WAS SUBSEQUENTLY SECONDED BY COMMISSIONER ACEVEDO, AND PASSED (5-0-0-1) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING A TENTATIVE MAP FOR A 6 LOT SUBDIVISION ON A .52 ACRE SITE LOCATED ON THE EAST SIDE OF CORY AVE., APPROXIMATELY 80 FT. SOUTH OF SAN LUIS WAY. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED (5-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF THE DEVELOPMENT AGREEMENT APPLICATION DA-07-02 FOR APPLICATION MP 91-06: SAN PEDRO-DICONZA, WITH MODIFICATION ON PAGE 6 (14H) REGARDING FORMATION OF AN INDEPENDENT HOA FOR THE PROJECT. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED (5-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING A DEVELOPMENT SCHEDULE FOR APPLICATION MP 91-06: SAN PEDRO-DICONZA. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED (5-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

2) ZA-07-11/  
DA-07-03/DS-07-17:  
E. CENTRAL-  
URBAN HOUSING  
COMMUNITIES

A request for approval of a precise development plan, development agreement and development schedule for a 49-unit senior housing facility on a 2.6-acre site located on E. Central Ave. west of the railroad tracks, in the Central Commercial Residential zoning district.

SP Linder presented the staff, and gave an overview of the current site use. "However, the main issue we have is the timing with this project. The applicant will be applying for a HUD grant with the deadline being March 27, 2008," SP Linder said. She went on to explain the timeframe, which the Planning Department has set in order to facilitate the completion of this project. This request, explained SP Linder, was for the construction of 49 unit rentals for senior housing. The design of the project was perused, with concerns raised about front setbacks on Central Ave., where 25 feet is needed with 16 feet being the norm. The building's pop-outs were noted, as well. Mitigations were explained, including site plan modifications and acoustical studies.

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Commissioners asked questions regarding:

- \* materials for the required wall – suggestions: open wrought iron; decorative fencing
- \* maximum height of fence (43 feet; 45 are allowable)
- \* possible requirement of removal of contaminated soil; additional mitigation set by the Regional Water Quality Control and Fire Department (both must approve plans; open garden area that can't be capped and would have to be addressed
- \* presence of somewhat of an anomaly in the noise study with the train whistles, need for full blown acoustical study; must make sure understand when whistle gets blown noise within the interior gets worse

Commissioner Mueller led discussion on the request for variance on Central Ave. suggesting merit to having the structure moved six feet to the south and thereby eliminating the need for the variance. SP Linder advised this had been discussed, but the applicant wanted to preserve walkways and landscaping.

Commissioner Tanda asked about the consideration being requested for a 20-day public review, asking, "How often does this happen?" SP Linder responded, "Infrequently. In fact, it is very rare and generally draws the displeasure of the Commissioners."

Commissioner Mueller asked, "Since the applicant knew he was going to apply for a HUD grant, why did he not tell the City sooner?" SP Linder responded, "We don't know; it certainly should have been done earlier. They began working with us December 1, 2007. The required CEQA work can be done by the City Council meeting, but the Planning Commission won't be able to act on it." Discussion followed regarding the potential for substantive data being received, which must be considered by the Commissioners. The possibility of a special meeting to consider such data was discussed. It was noted that pre-advertisement of Council action prior to a Commission action is not legally advisable.

Chair Escobar opened the public hearing.

Jerry Johnston, 95 Central Ave., spoke to the Commissioners, advising of the proximity of his residence to the project. "My concerns are that this will be a three-story, very large building and the 6-foot variance could make a big difference in having it so close to us. We are also concerned about the parking in relation to the driveway opening and where restricted parking will be. Mostly, we need to tell you that when the train whistle is blowing – and it blows all the way through there – if a person is outside it can hurt your ears. We also want to know if there is a plan for putting the gate in. And of course, we are concerned about speed in the area. Do you think it would be possible to widen that strip right next to the Donut shop? The street there is very tight with two cars meeting, so you would need to widen the street from the Donut shop parking to the back. At any rate, it will make for a lot of traffic for the court (49 residents)," Mr. Johnston said.

Commissioner Mueller and Mr. Johnston continued discussion begun before the meeting regarding the perimeter fencing. Mr. Johnston provided account of vandalism to the fence, which had been destroyed many times including forcible use of bolt cutters for cutting the fence to have access to a direct route of passage. "We are not

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just talking kids here,” Mr. Johnston said. “These are 20-something youths who can be very threatening.”

Mark Irving, of Urban Housing Communities, 2000 E. Fourth St, #205, Santa Ana, told the Commissioners he was excited about the project, which brings affordable senior housing to communities.

Commissioner Koepp-Baker noted the development is touted as ‘environmental senior rental housing’. She then asked, “What is the income level the rental is based on? I see you also call it ‘low income senior housing’.” Mr. Irving responded that 30 - 60% of the residents will be single income with annual incomes of \$18,000 – \$36,000 with a two-income family having \$22,000 - \$44,000 per year.

Mr. Irving called attention to the proposed RPD and said, “Mr. Johnston’s concerns about parking are why we want RPD, and so we can allow for the best circulation possible. If it is not an RPD that would eliminate issue of zoning.”

Commissioner Mueller asked what would be the impact of shifting the building six feet to the south. Mr. Irving responded, “We would lose four parking spaces in the front and would also reduce the garden area.” Discussion followed as to whether there might be an issue of water quality. Mr. Irving said the landscape architect was present to answer questions of the matter.

Chair Escobar inquired as to other project of Urban Housing Communities, e.g., the locations, and known outcomes/results of the projects. Mr. Irving spoke of a senior affordable housing project in Indio CA specifically for retired farm workers then invited the Commissioners to attend the grand opening of a multi family project in Santa Rosa on February 28, 2008. “We are specifically in California and Hawaii,” Mr. Irving said, as he referenced a development in Elk Grove. Mr. Irving explained that the development in Indio consists of 80 units with those being single story four-plexes on about 4.5 acres.

Chair Escobar continued by asking why a pool was planned instead of another amenity? He explained that he had viewed many senior facilities because of his parents during the last few years and was surprised at this design for Morgan Hill. “Do you have the data to support this use, or do you just feel it would be nice to have? I can understand a pool in a multi family development.”

Alan Scales, Architect for the development, told the Commissioners that the pool was chosen specifically as the amenity to meet the requirements Measure C point. In looking at the scoring and deciding whether it would be a viable amenity for this community, the company retained a marketing firm and they suggested the pool would be a viable amenity, with added value. Mr. Scales also called attention to the 3,000 sf recreational facility, which is planned to be ‘multipurpose, exercise, with a media center’ as he publicized the ‘vast amount of amenities here’.

Commissioners discussed with the applicant and other representatives:

- \* potential of moving the building 6 - 8 feet to the south
- \* set-backs and building pinch points
- \* parking: ratio of cars to seniors ~1 vehicle per resident (this development meets and exceeds City requirements)



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Mr. Scales presented renderings of the project to provide an idea of what is being planned with Commissioners commenting on:

- \* two pinch points (resultant because of the nature of the street)
- \* building not setting parallel to the street

Chair Escobar expressed concern of the height of the building and how that could influence the rest of the neighborhood. Mr. Scales responded, "We certainly planned the building to break down the mass as we added balconies for shadow and siding to give emphasis to the base of the building, and the hip roof to set the roof back." He called attention to the design change before the highest roof point, "It is 42 feet to the ridge line," he said, giving details of the craftsman architect style. "The company is sensitive to having three stories so have chosen to give emphasis to the ridge line," Mr. Scales said. He then went to speak to a proposed change within the Measure C requirements in the Development Agreement as he explained the high efficiency gas furnaces had been abandoned in favor a more effective central boiler system. "Further, we are now substituting a solar system to be screened from view to provide energy for the building which will require a swapping of points." Commissioner Acevedo questioned the placement of air condition units on the roof as shown in the plans. Mr. Scales said the new system solar would replace those and each unit would have an air conditioning compressor unit on the garden balcony areas. He explained that with the water heater condenser unit, the boiler system would be integrated into the building itself for central hot water. SP Linder advised that the new design would be viewed by the ARB next week.

Ms. Susan Kossab a resident of 65 E. Central spoke, and expressed concerns of:

- \* garages close to front of street
- \* concern with air condition on each deck (noise factor)
- \* potential for 'tunnel effect' because of the housing mass
- \* town houses being two story
- \* now there is an aura of wide open space; plan provides neighborhood with no view at all ~ just a wall
- \* market value 1.3 – 4; concern that this project might hurt value buy property in ca for investment value
- \* this being a 'mega project'

With no other persons in attendance indicating a wish to speak to the matter, the public hearing was closed.

Discussion followed regarding the building encroachment from the McLaughlin Street, with Commissioner Mueller noting the concern that what this looks like at the street level is just a big building. "I'm leaning to having the set back met on Central, especially at McLaughlin," he said. "I'm just not convinced the building shouldn't be back 25-feet."

PM Rowe pointed out the 'expansive openness with parking on the east and 25-feet on McLaughlin to the bulb of the cul de sac.

Considerable discussion ensued regarding:

- \* placement of the building
- \* distance on the street before the 25-foot set back is reached

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- \* front area set back considerable more than required

SCE Creer was called on to address the issue of setback distances from the street.

Chair Escobar was requested to reopen the public hearing.

Mr. Irving was permitted to address the issues of timing in relation to the HUD financing which requires considerable time – with strict deadlines – for the funding mechanism. Mr. Irving acknowledged that City staff has worked hard to try to accommodate the schedule. Mr. Irving explained that the first architectural drawings had been done in September with contact to the City in ‘probably November’. Mr. Irving claimed belief that the HUD filing date had been communicated to City staff. “We thought that by addressing the RPD, we could stay on schedule,” he said.

Commissioner Koepp-Baker requested clarification of HUD funding and the financial obligation of renters in HUD developments.

The public hearing was closed.

Commissioner Mueller again stated preference for having the project moved south to eliminate the need for variance of setbacks.

Commissioner Acevedo asked about the landscaping along the northern border and said he wondered if tree types could impinge on the neighbor’s views of the structure?

Chair Escobar reopened the public hearing.

Commissioner Acevedo clarified he was asking about the landscaping because of the massing and interest in discovering if moving the building south would affect the landscaping, as well as how the mass could be involve?

Jason Milam, Landscaper, told of the trees that are planned for the northern border, explaining they were all deciduous with ‘high canopies and fairly broad providing dapple shade in the summer with the buildings clearly visible in the winter.

Commissioner Acevedo expressed the thought of moving the human scale on the north side if it could change with landscaping.

Chair Escobar said from his perspective he could not think there would be an issue with losing four parking spaces, creating the need for minor adjustment of landscaping. “That notion gives some reason to moving the building six feet south.”

The public hearing was closed.

Commissioner Mueller spoke on the need to look at the possibility of having covered parking and/or putting the carport next to railroad track. “This could play into the necessity of the acoustical study,” he said.

**COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO RECOMMEND APPROVAL OF THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION DEVELOPMENT MOTORING PLAN, WITH THE CAVEAT**

THAT NO NEW INFORMATION WOULD SURFACE DURING THE 20 DAY PUBLIC REVIEW AND COMMENT PERIOD. THE MOTION PASSED (5-0-0-1) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF A ZONING AMENDMENT CHANGING THE ZONING DESIGNATION FROM CENTRAL COMMERCIAL RESIDENTIAL TO CENTRAL COMMERCIAL RESIDENTIAL PLANNED UNIT DEVELOPMENT AND THE ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A 49 UNIT SENIOR APARTMENT PROJECT ON A 2.6-ACRE SITE LOCATED AT THE SOUTHEAST CORNER OF E. CENTRAL AVE. AND McLAUGHLIN AVE., INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND THE ADDITION OF SECTION 7: REQUIRING THE SET-BACKS TO BE MET AT THE FRONT BY MOVING THE BUILDING 6-FEET TO THE SOUTH. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (5-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

COMMISSIONER MUELLER OFFERED A MOTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-07-03: E. CENTRAL-UHC FOR APPLICATION MC-05-09: E. CENTRAL-UHC, INCLUSIVE OF THE FINDINGS AND CONDITIONS, TOGETHER WITH THE MODIFICATION AND AGREEMENT FOR FENCING MATERIALS (TO BE DECIDED BY THE ARB) AND SOLAR DEVICE PLACEMENT (section 14, page 8, INCLUDING THE USE OF THE SINGLE BOILER FOR HOT WATER SERVICE) COMMISSIONER KOEPP-BAKER SECONDED THE MOTION.

During discussion of the motion, fencing and the sound wall were the topics, with it being found that no further modifications were specified.

THE MOTION PASSED (5-0-0-1) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING A DEVELOPMENT SCHEDULE FOR BUILDING ALLOCATIONS FY 2008-09 & FY 2009-10 AWARDED TO APPLICATION MC-05-09: E. CENTRAL-UHC, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN TOGETHER WITH ANY MODIFICATION FOR PLACEMENT OF THE FENCING AND SOLAR AMENITIES. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (5-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.

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Commissioner Tanda clarified that the acceptance of the Precise Development Plan could technically permit the applicant to withdraw the variance request. Staff agreed, saying the Precise Development Plan may not be needed, and may be changed if the Planning Commission recommends that action.

Commissioner Tanda said it would be essential to take care to have the Commissioner's intent conveyed to the ARB.

### **3) APPROVE DISTRIBUTION OF BUILDING ALLOTMENTS FOR THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) APPLICATIONS FOR THE FY 2009- 10 MICRO PROJECT COMPETITION AND DOWNTOWN MEASURE "F" OPEN MARKET COMPETITION**

*Commissioner Acevedo requested that discussion of the two issues be kept separate so that he could participate in the micro project competition discussion and not be conflicted as he has property in the downtown area.*

PM Rowe reported that no appeals were received and the allocations had been approved. "This evening, we are asking that the Commission finalize the approval of distribution of the building allotments," he said. PM Rowe then gave a brief overview of the competition process and the details of the current competition, wherein MMC-07-03: Myrtle-Latala was the highest scoring project with 160.5 points. .

Chair Escobar opened the public hearing.

Sylvia Leung, 968 Hanson, Milpitas, told the Commissioners she was an applicant in the micro competition. "Our engineer, Mr. McClintock advised us not to appeal. But if these are weighted scores, ours would be the highest scoring. Now, I'm not here to appeal or interfere, but to clarify what our options are," Ms. Leung said. "We have been told by the consultants we could switch to a 'small' project." She went on to ask:

- if the switch could be completed in June of this year
- could the \$12,000 invested already (application fee) be waived as she had spent so many hours already

PM Rowe responded that projects in the small category are generally 7 - 15 units with those less than seven not being precluded from the competition. He then cautioned that there would not be a small category competition this June and if there is a competition for small projects, it will be held in October.

Commissioner Mueller commented that the applicant could look at the categories and then decide on the competition she felt best suited her needs. Discussion followed regarding the various categories of competition and the numbers of allocations typically available in those. It was strongly suggested that Ms. Leung have more detailed discussion with staff regarding the matter.

Commissioner Acevedo explained the set-aside allocation discussion should be held no later than the second meeting in May.

Commissioner Tanda focused on the intent to simplify the process.

With no others present to speak to the matter, the public hearing was closed.

PM Rowe announced the work plan item scheduled for the subcommittee reflection was to be addressed at the March 11 Commission meeting.

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Commissioner Tanda referenced the request to have Ms. Leung's application fee (\$12,000) applied to a new competition. PM Rowe said the commissioners might want to have the subcommittee consider recommendation to the City Council for modified fees for reconsideration of the same project.

**COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS, APPROVING THE DISTRIBUTION OF THE FISCAL YEAR 2009-10 BUILDING ALLOTMENTS IN THE 2007 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM MICRO PROJECT COMPETITION AS PRESENTED, WITH THE THREE ALLOTMENTS BEING AWARDED TO MMC-07-03: MYRTLE-LATALA, AS THE HIGHEST SCORING PROJECT WITH 160.5 POINTS. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (5-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.**

*Commissioner Acevedo was excused at 9:45 p.m. because of the potential for conflict of interest due to his ownership of a business within a 500-foot radius of the subject property.*

PM Rowe presented the staff report, noting that the Sherman House application was now the City of Morgan Hill application. "This allocation award is for 23 building allotments," he said.

Chair Escobar opened, and then closed, the public hearing as no persons were in attendance to speak to the matter.

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE DISTRIBUTION OF THE BUILDING ALLOTMENT IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM 2007 DOWNTOWN MEASURE F PROJECT COMPLETION, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (5-0-0-1), BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO, DAVENPORT.**

*Commissioner Acevedo returned and was seated on the dais at 9:47 p.m.*

**WORKSHOP:**

**HISTORICAL  
RESOURCES  
ORDINANCE  
WORKSHOP**

The City of Morgan Hill is updating the City's historic resources inventory and Chapter 18.75, Cultural Resources Preservation, of the Morgan Hill Municipal Code. The intent of the update is to streamline the development review process for the purposes of the California Environmental Quality Act by better defining the process for the identification and review of potential historical resources. The ordinance will be used with the adopted Historic Context Statement to make determinations of significance in the future.

SP Tolentino presented the staff report, with input from CDD Molloy Previsich and

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Sheila McElroy of Circa: Historic Property Development, One Sutter St., #910, San Francisco. SP Tolentino explained that the City was attempting to streamline the development review process, then provided a brief overview of the recent survey of properties identified by the Assessor's Office as being over 45 years old and located within the City's Urban Growth Boundary. The evaluation process with concentration on the downtown area was explained.

Discussion ensued regarding:

- survey focused on 'windshield assessments'
- three potential historic districts pinpointed
- interest in putting money into the City budget to continue project and complete additional evaluations
- guidelines for evaluating properties
- future use of GIS for identifying potential historic areas
- this survey does not equate designation

CDD Molloy Previsich explained the changes in CEQA and how the City is required to see if buildings over 45 years in age have significance. Both development review and CEQA review are required, she said. CDD Molloy Previsich said the process for design review permit could include asking for local determination of historic significance, which might not always have to be significant according to the Secretary of Interior's Standards. She went on to explain the incentives and advantages available to property owners who participate in the program. Responding to Commissioner Tanda's concern of increased costs for remodel/rehabilitation to applicants, CDD Molloy Previsich explained the changes in CEQA for evaluating significance, and indicated much pre-work is being done with the current survey.

Ms. McElroy gave an overview of her survey work, together with the myriad of volunteers who helped. Ms. McElroy responded to questions from the Commissioners regarding the evaluation work and highlighted the findings of the survey. She went on to explain the various levels of historic designation: national, state, and local, detailing how a building can meet the California state register at the local level, as being important locally but not to the State as a whole.

SP Tolentino gave an overview of status table, which was included in the distributed materials.

Jennifer Tate, 2940 Holiday Court, advised the Commissioners she is President of the local Historical Society, and then proceeded to speak on the importance of identifying the properties to assist owners with remodeling. "This survey will make it simpler for the City to deal with the applications for remodel/renovation," she said.

SP Tolentino reiterated the differences between local, state, national designations and how each was determined. Several local dwellings and properties were discussed.

Commissioners Koepp-Baker and Tanda said they would not want to get into a position where the homeowner with 45-year-old home would incur escalated cost to maintain the property. Commissioner Mueller said if the preliminary work was narrowed down - and if a Historic District were identified, then landowners could look to the City for money to help through RDA funding.

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CDD Molloy Previsich announced the need for further study with the Planning Commission and City Council then deciding if they want to establish a historic district. CDD Molloy Previsich also spoke of codifying the standard conditions for potential archaeological resources and told of archeological sensitivity areas where it may require having an Archeologist be present on-site during ground-disturbing activities unless the applicant chooses to have an archaeological survey completed of the site during the initial study.

The staff report was perused and discussed in detail, with staff indicating the purpose of identifying incentives to preserve the historic dwellings with mechanisms to support the homeowner when the dwelling was declared significant. Commissioner Mueller said it would be important to set up a district to allow income-generating uses for historical resources as part of a planned development. Commissioner Acevedo expressed concerns of money-generating business in residential areas. Ms. McElroy told of some communities when developments – which were projected to be over a certain cost - set aside monies (like an in-lieu payment) towards a preservation fund. The potential for transfer development credit could also be included in an Ordinance.

Ms. Tate advised of the availability of accessing Mills Act money, which brings ‘many benefits’.

SP Tolentino advised that at the March 11, 2008 Planning Commission meeting, there will be public hearing on a proposed Ordinance regarding this matter.

Discussion evolved regarding:

- the need to adopt the survey list or just use it as a tool
- no buildings can automatically be placed on the local register or the adopted survey list; City Council must determine
- how the Ordinance would work when a building permit application is presented
- the Design Permit and Historical Resource Demolition or Relocation Permit would be a new requirement
- what triggers a historic evaluation
- need to have the City Building Division interacting with Planners

**ANNOUNCEMENTS:** The City Council accepted the resignation of Commissioner Benich and directed the City Clerk to announce the opening on the Planning Commission.

The City Council also approved the Development Agreement for Ginger-Custom One as recommended by the Planning Commission.

**ADJOURNMENT:** Ascertaining there was no further business to come before the Commissioners, Chair Escobar declared the meeting adjourned at 11:00 p.m.

**MINUTES PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**